

Economic Development Access Program Guide

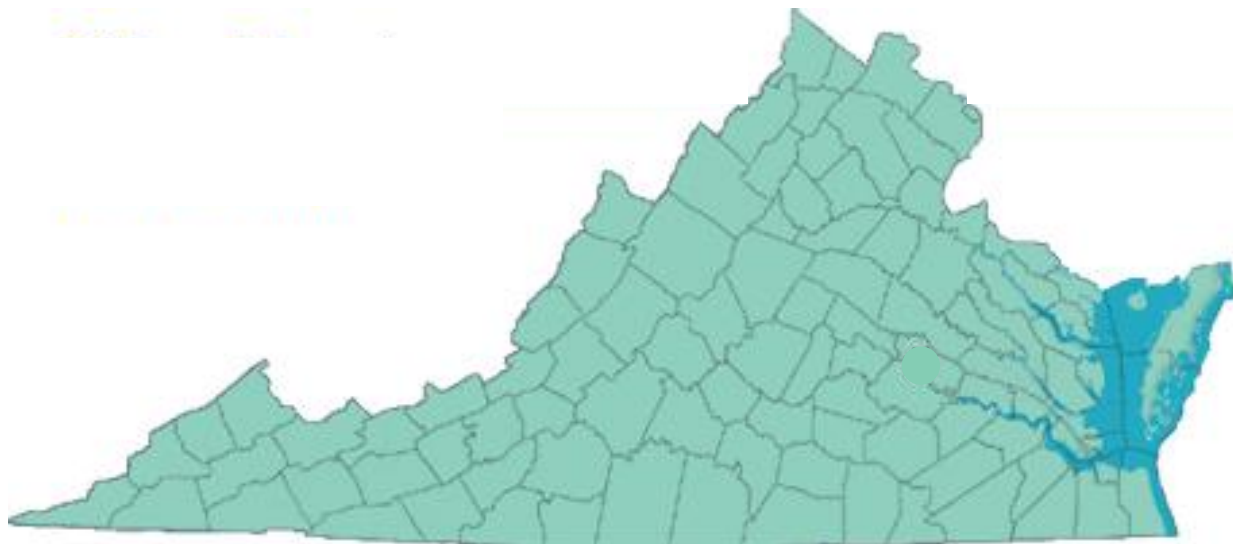
Administered by the
Virginia Department of Transportation
Local Assistance Division



Local Assistance

Local Assistance is a program that provides technical assistance to local governments in the form of grants, training, and other resources.

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Virginia Department of Transportation

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ECONOMIC DEVELOPMENT ACCESS PROGRAM GUIDE

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Frequently Asked Questions

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Refer to page 4, section III

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Refer to page 10, paragraph IV.F

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Refer to page 2, paragraph II.F

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Refer to page 13, paragraph V.B.7 and page 14, paragraph VI.6

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Refer to page 2, paragraph II.E

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Refer to page 4, paragraph II.I

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Refer to page 13, paragraph V.B.6 and, page 14, paragraph VI.4

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Refer to page 7, paragraph I.A.2

I. PURPOSE

The Economic Development Access Program is a state-funded incentive designed to assist Virginia localities in attracting sustainable businesses that create jobs and generate tax revenues within the locality. The program makes funds available to localities for road improvements needed to provide adequate access for new or substantially expanding qualifying establishments. Economic Development Access funds are allocated by the Commonwealth Transportation Board (CTB) in accordance with its policy revised on June 20, 2012 (see Appendix B). These funds may be used for financing the construction or improvement of secondary or local system roads within all counties and cities, and certain towns that are part of the Urban System, hereinafter referred to as eligible localities. Ancillary improvements, such as turn lanes or intersection modifications may also be warranted as part of the access project, but are not to be considered as the primary objective of the project. The program is administered by the Virginia Department of Transportation (VDOT), Local Assistance Division. This guide describes the requirements, limitations and procedures of obtaining and utilizing Economic Development Access funds.

II. DEFINITIONS

A. Adequate Access

“Adequate Access” means a publicly maintained road from the primary entrance of the economic development site to the nearest adequate publicly maintained road. Economic Development Access funds cannot be used to construct or improve roads on a privately owned site.

Adequate access may require the construction of a new roadway, or the improvement of an existing road (see page 19, paragraph VI. E.), or a combination of the two. When a new roadway is requested, funding is based on the most economical access to serve the site. Standards for a new or improved roadway will vary according to the type and amount of traffic it is projected to accommodate. (Please refer to VDOT’s [Road Design Manual](#) for guidance on these standards.)

Any parcel with direct access to an adequate publicly maintained road is deemed to have access by virtue of its location and is ineligible for funding to construct a new roadway. Under certain conditions, however, a qualifying establishment on an abutting parcel may justify improvement of the existing road.

B. Basic Employer

“Basic Employer” as defined in § 2.2-5100 of the *Code of Virginia* means employment that brings new or additional income into Virginia and adds to the gross state product. The Virginia Economic Development Partnership (VEDP) in consultation with the Virginia Department of Business Assistance (VDBA) will determine if a facility meets these requirements.

C. Bonded Projects

“Bonded Projects” refer to Economic Development projects that localities have requested to be funded but lack the establishment of sufficient private investment to justify the anticipated allocation necessary for the estimated road construction cost. Localities requesting projects under this circumstance guarantee that eligible private investment will be established according to program guidelines and the requesting locality provides surety acceptable to VDOT for this purpose. Further guidance on bonded projects is on page 8, paragraph IV. A. 2.

D. Major Employment and Investment (MEI) / VEDP Strategic Properties (Megasites)

The Virginia Economic Development Partnership (VEDP) administers the Strategic Properties Initiative. A strategic property is characterized as a Major Employment and Investment (MEI) project site. Section 2.2-2260 of the *Code of Virginia* defines a MEI project as one being a high-impact regional economic development project in which a private entity is expected to make a capital investment in real and tangible personal property exceeding \$250 million and create more than 400 new full-time jobs, and is expected to have a substantial direct and indirect economic impact on surrounding communities.

E. Project Cost

“Project Cost” means the allowable costs for which Economic Development Access Program funds may be utilized. This includes the reasonable costs of preliminary engineering and surveying associated specifically with the project design and actual construction cost of a roadway built to VDOT standards (or developed in accordance with American Association of State Highway and Transportation Officials (AASHTO) standards for locality maintained roads) for accommodating the projected traffic. Any pedestrian or bicycle facility deemed necessary for the project is eligible for funding. Excluded are items such as environmental studies and permits, obtaining right-of-way and relocation of utilities, and traffic impact studies. Optional roadway features other than those determined to be required to meet appropriate design standards, such as roadway lighting or landscaping, may be included in a project, provided that the costs of these features are borne by others. Costs incurred (e.g., paid items or those for which a contract or purchase order has been executed) prior to allocation by the CTB are not reimbursable.

F. Qualifying Establishments

“Qualifying Establishments” include manufacturing, processing, research and development facilities, distribution centers, regional service centers, corporate headquarters, government installations or similar facilities, or other qualifying establishments that also meet basic employer criteria as determined by the VEDP in consultation with the VDBA.

Excluded from consideration are the following establishments: schools, hospitals, libraries, airports, armories, shopping centers, speculative office buildings, apartment buildings, professional offices, residential developments, churches, hotels, and motels.

G. Qualifying Investment

“Qualifying Investment” or “Eligible Capital Outlay” represents the cost to the qualifying establishment of the land, the building, and newly purchased manufacturing or processing equipment. Costs for items such as office equipment, desktop office computer systems, manufacturing equipment transferred from another plant, and rolling stock are ineligible. Also ineligible are legal fees, taxes, recording fees, interest and similar type expenses. Capital costs incurred by the qualifying establishment more than six months prior to the date of resolution of the governing body will normally be disallowed.

The establishment of qualifying investment requires documentation such as deeds, purchase orders, cancelled checks, executed “firm contracts,” and other documentation deemed necessary to validate capital investment expenditures. A “firm contract” means that there is a binding construction contract between the property-owning qualifying establishment and a general contractor to construct a building or buildings for new or expanding eligible facilities. Construction of a building or other facilities by a qualifying establishment acting on its own behalf does not constitute the necessary arm’s length contractual obligation. In such instances it is necessary for the qualifying establishment to complete the building and have an independent appraiser (acceptable to VDOT) establish the eligible capital investment upon completion before investment credit can be determined and program funds are authorized for expenditure. Under this circumstance, it may be better to request a bonded project to allow for the time necessary to determine the amount of eligible capital investment.

Lease arrangements for land and buildings, as opposed to direct property ownership by a qualifying establishment, may require additional documentation to establish the amount of eligible capital investment. Further, the inclusion of a tenant’s option to purchase does not constitute the tenant’s capital investment. A qualifying lease must be for a term of no less than five years, must require payments equivalent to those for comparable properties, and must include a substantial financial penalty for default or early termination by the leasing qualifying establishment.

If a lease or lease-purchase agreement is considered acceptable, the qualifying investment will be the owner’s documented cost to develop the leased premises, along with any eligible items installed by the leasing qualifying establishment. If the lease does not meet the criteria for acceptance, no capital outlay credit can be established by the leasing qualifying establishment.

In addition, certain capital investment by the local government indirectly attributed to a qualifying establishment’s investment may be allowable in justifying the cost to the EDA Program. Eligible capital investment is land and/or buildings funded solely by the locality. Ineligible capital investment is improvements funded to any degree by federal or state program funds. Documentation of public investment includes deeds, contractor payments, and other documentation necessary to validate capital investment expenditures.

Appendix E of this guide, is intended as a cover sheet to assist the locality in compiling documentation of qualifying investment for VDOT’s review and must accompany all submittals for documenting investment.

H. Regular Projects

“Regular Projects” are proposed Economic Development projects that localities request to be funded based on the commitment of named eligible business establishments. Localities must provide appropriate documentation of eligible private investment prior to VDOT authorizing the use of these program funds. Further guidance on regular projects is on page 6, paragraph IV. A. 1.

I. Surety / Bond

“Bond or Other Acceptable Surety” means a legally binding financial instrument guaranteeing the return of state Economic Development Access Program funds as a result of a locality’s inability to meet the terms of the allocation as outlined in the CTB’s resolution approving the project and funding.

These include:

- a surety bond issued by a commercial bonding or insurance company
- an irrevocable letter of credit established with a bank or other financial institution

The purpose of such instrument is to provide a means for VDOT to recover the funds expended on a bonded project in the event sufficient capital outlay is not documented within the period for establishing qualifying investment. The length of this period is five years, beginning on the date of the CTB’s resolution approving the project and allocation, and may be referred to as the “bonded period.” The conditions of any such device must authorize VDOT to collect the appropriate amount within three (3) months of the end of the bonded period or any time after that if other suitable arrangements for payment have not been made by the locality. The bond or other device must be provided by the locality. See Appendix D for examples of approved formats of surety devices.

III. TIME FRAME FOR APPLICATION PROCESS

Planning ahead for an access road project is critical to its success. While VDOT may not necessarily need to be involved in some of the initial discussions about planning for a economic development site, early involvement as soon as the road access plans are identified can help avoid delays. An initial request from a local governing body for Economic Development Access Program funding typically takes four to six months to attain approval by the CTB. Meeting the contingencies of the CTB allocation approval often requires another two or more months. Steps in preparing and approving the local-state agreement, conducting environmental and cultural resources reviews, advertising for bids, awarding a contract, and constructing the road, and each entails variable periods of time. Initiating the SERP, if applicable, and coordinating with regulatory agencies may take at least 60 days; however, the time necessary to complete environmental studies that may be required by federal and state laws and obtaining necessary permits can be varied and extensive depending on the outcome of initial review.

It should also be noted that a number of different local and state governmental officials and bodies will review each request, some of which, including the CTB, meet once each month.

IV. ROLES and RESPONSIBILITIES

This section outlines the necessary roles and responsibilities of each party to develop a proposed access road project from concept to completion. The process is illustrated in the flow chart for the development of regular projects (page 15) and the flow chart for the development of bonded projects (page 16). Appendix G is a checklist of the necessary steps in developing, executing, and completing an Economic Development Access Program project.

A. The Local Government

The local government is responsible for coordinating the planning of the access road project with VDOT. A local government representative interacts with the VDOT Manager, as defined in section B, through the life of the project.

If Economic Development Access funds are requested to construct a new road (as opposed to improving an existing public road), please see page 1, paragraph II. A., for a discussion of whether the parcel in question is likely to qualify. For improvements to existing roads, please refer to page 19, paragraph VI. E.

The approved CTB allocation of economic development access funds typically contains contingencies, for which the locality is responsible for satisfying. These requirements generally include the execution of an agreement with VDOT, right of way acquisition and utility relocation at no cost to the program, satisfaction of applicable environmental commitments and funding ineligible costs associated with the project.

If a project has an estimated cost more than \$500,000, the State Environmental Review Process (SERP) must be completed prior to advertisement or land disturbance activities in order to satisfy the requirements of § 10.1-1188 of the *Code of Virginia*. However, regardless of the estimated project cost and regardless of whether the project is to be administered by VDOT or the locality, the locality will be responsible for obtaining water quality permits (and any other applicable permits) and the locality is solely responsible for compliance required by any state and/or federal regulations, laws, etc.

For locality-administered projects, the locality should complete the Certification Form for State Funded Projects (see Appendix F) and provide a copy to the VDOT Project Coordinator. Use of this certification form will minimize VDOT's oversight role on the project. VDOT will periodically perform Quality Assurance audits of the locality's project documentation files. For additional information, please refer to the Department's website at:

http://www.virginiadot.org/business/environmental_requirements_for_state_funded_projects.asp

The locality may officially request an Economic Development Access Program allocation through a resolution of its governing body. Appendix C contains sample resolutions. A certified copy of the approved resolution is provided to the VDOT Manager.

In addition, the identification of the entity (the locality or VDOT) responsible for project administration should be determined as early as possible in the process in order for the

responsible party to coordinate project development.

Before applying for these funds, the locality must determine whether the request will be for a regular project, bonded project, regional industrial facility authority project, or a VEDP strategic property site as further described below.

1. **Regular Projects** (where an existing qualifying establishment is expanding or a new named qualifying establishment is under firm contract to build):

After the qualifying establishment has made a decision to locate on a particular site, the qualifying establishment's representatives should then provide the following to the locality with a copy to the VDOT Manager.

- a. A preliminary plan showing the entire parcel of land, and the locations of: the building, other major site features, the proposed entrance, the proposed access road, and existing public roads and highways in the immediate vicinity of the site. If the site is part of an economic development subdivision, all parcels must be delineated and numbered.
- b. A letter of request to the appropriate local governing body on its corporate letterhead incorporating the following information:
 - i. Intent to build or expand on a designated site
 - ii. Description and location of the site
 - iii. Target date for building construction
 - iv. Target date for beginning operation
 - v. Capital investment planned on the site, itemized
 - vi. Narrative of establishment's operation
 - vii. The number of new jobs to be created
 - viii. Access road improvements requested
 - ix. Estimates of the numbers of additional employee vehicles and truck traffic which will use the access road on an average business day

It is also recommended that the locality forward a copy of this letter to the Executive Director, Virginia Economic Development Partnership, Post Office Box 798, Richmond, Virginia 23218-0798 and to the Director, Existing Business Services, Virginia Department of Business Assistance, Post Office Box 446, Richmond, Virginia 23218-0446, since concurrence by these offices will be needed prior to allocation of funding.

Eligible localities may request funding for a road to a qualifying establishment by providing a certified copy of an approved resolution directly to the VDOT Manager in that locality. In towns that do not maintain their own road system, the request by the County Board of Supervisors should be concurred by a separate resolution of the Town Council.

For new roads, the resolution should state that right of way and utility relocation, if necessary, will be provided at no cost to VDOT, and that the road will be accepted into the appropriate road system for maintenance. The identity of the qualifying establishment is also to be specified. See Appendix C1 for a suggested resolution. A flow chart outlining the project development process for this type of project is also provided within this guide (see page 15).

Allocations for road construction are limited to 20% of the qualifying capital investment. If the amount of qualifying investment is not at least five times the estimated cost of the road construction, the resolution should state that the locality will assure the provision of the construction funds not justified by the capital investment. Project costs in excess of the allocation will be the responsibility of the locality. No funds administered by VDOT may be utilized in providing any such supplemental financing for a new access road project.

2. **Bonded Projects** (where no establishment is under firm contact to build or when the identity of the qualifying establishment is held confidential):

When an eligible locality desires to have an Economic Development Access road constructed in anticipation of a commitment by a qualifying establishment to locate, such a request may be made as above. Allocations for bonded projects are based on the estimated cost of such projects, up to the maximum funding limitations. The governing body must guarantee to the CTB that a bond or other acceptable surety will be provided to cover the anticipated cost of the project which is not yet justified by qualifying investment. Project costs in excess of the allocation will be the responsibility of the locality. For new roads, the resolution should assure that right of way and utility relocation will be provided at no cost to VDOT, and that the road will be accepted into the appropriate road system for maintenance.

The resolution of the governing body will also clearly indicate that, if a qualifying establishment is not constructed or under firm contract within the five-year bonded period, program fund expenditures unwarranted by qualified capital investment shall be remitted to VDOT or the required surety shall be forfeited. During the term of the surety, the locality may request a partial reduction in the value of the surety. This reduction would be based on the amount of qualified capital investment properly documented. If only partial qualifying investment occurs on appropriate site(s) within the time limit of the bond, proportional credit against the bond will be granted for that partial investment.

The time limit for bonded projects will be five years from the date the CTB approves by resolution the project and funding allocation. Localities are encouraged to address any required CTB contingencies and initiate construction as soon as possible to maximize the available time to attract qualifying investment. See Appendix C2 for a suggested locality resolution. A flow chart outlining the project development process for this type of project is also provided within this guide (see page 18).

While the bonded project process allows an excellent opportunity for localities to receive an allocation and build an access road that may attract qualifying establishments, it also represents a risk and localities should consider the financial impacts if they are unable to attract qualifying establishments with sufficient capital investment within the five-year bonded period.

If a locality does not meet the terms of the bonded project and is required to return funds to VDOT, the locality may then request an additional 24 months to establish qualifying capital investment in accordance with the CTB policy. This flexible provision was added by the CTB in the June 16, 2006 update for administering these funds to provide an additional opportunity to localities to attract qualifying establishments. To take advantage of this option, the locality must first return any funds due to VDOT for fund expenditure not justified by investment and then make the request in writing to the Director of the Local Assistance Division that the CTB consider providing the additional 24-month period to document qualifying investment. If approved, the CTB may return up to one half of the funds returned by the locality upon establishment of the appropriate amount of qualifying capital investment. The additional 24-month period extension is based on the expiration of the original five-year period.

VDOT will recommend to the CTB that consideration of new access fund allocations be prohibited for any locality with an outstanding debt for a bonded access project until that debt is satisfied. “Outstanding debt” is represented by the locality’s obligation to return Economic Development Access funds expended on a project unwarranted by sufficient qualifying investment established within the five-year bonded period.

3. Regional Industrial Facility Authority Projects

A locality may request Economic Development Access funds on behalf of a regional industrial authority. If an eligible site is owned by such a regional industrial facility authority, as defined in § 15.2-6400 of the *Code of Virginia*, funds may be allocated for construction of a regular or bonded access road project to that site without penalty impacting the maximum annual allocation amount the locality is allowed to the jurisdiction in which the site is located. This provision may be applied to one regional project per fiscal year in any jurisdiction, with the same funding limitations as prescribed for other individual projects. The host locality will be required to provide the required surety if a bonded project allocation is requested and execute the local-state agreement.

4. Major Employment and Investment (MEI) / VEDP Strategic Properties (Megasites)

The Virginia Economic Development Partnership (VEDP) administers the Strategic Properties Initiative, and identifies sites under this program. A strategic property is

characterized as a Major Employment and Investment (MEI) project site. Section 2.2-2260 of the *Code of Virginia* defines a MEI project as one being a high-impact regional economic development project in which a private entity is expected to make a capital investment in real and tangible personal property exceeding \$250 million and create more than 400 new full-time jobs, and is expected to have a substantial direct and indirect economic impact on surrounding communities. Certain special provisions apply for Economic Development Access Program projects on sites meeting the MEI definition.

a. Design-Only Projects

The locality may receive up to the maximum unmatched allocation and matched allocation for a design-only project. The local governing body shall guarantee by bond or other acceptable surety that plans for a MEI project will be developed to standards acceptable to VDOT. Upon approval of the road plans by VDOT, the surety may be released.

b. Additional Allocation

The locality may receive up to the maximum unmatched allocation and an additional \$500,000 matched allocation for a road construction project. Project allocations for a given MEI project may be cumulative for not more than two years. The MEI project may be regular or bonded.

Further details and examples are provided starting on page 17, section VI. B., under Funding Limitations.

5. Towns

Towns maintaining their own streets and receiving maintenance payments under § 33.1-41.1 of the *Code of Virginia* shall be treated for purposes of this program as independent entities (for a list of these towns, see Appendix H).

Towns whose streets are maintained as a part of the secondary system of state highways will be considered as part of their respective county. An allocation to such a town will be calculated as a portion of its county's \$500,000 annual unmatched limitation and will be subject to concurrence by resolution of the respective Board of Supervisors.

B. The VDOT Manager

The VDOT Manager as referenced in this guide is the department employee responsible for administration of the Economic Development Access Program for that locality. This person is usually the Residency Administrator, but may be another designee of the District Administrator. The VDOT Manager supports the locality in reviewing the local governing body's resolution requesting funding, sketches and cost estimates for requested road improvements, in initiating SERP (if required), and in compiling the information necessary for review by other VDOT offices and other state agencies. The VDOT Manager will review the complete assembly of information, as referenced in section IV. B., and provide a

recommendation to the District Administrator.

C. The District Administrator

Upon review of the locality's project request and the VDOT Manager's recommendation, the District Administrator forwards the information package with a recommendation to the Director of the Local Assistance Division.

D. The Director of Local Assistance

The Local Assistance Division Director coordinates review of the application between the appropriate VDOT offices and VEDP and VDBA, as appropriate. After all prerequisites have been met for a viable project the Director of Local Assistance may recommend approval to the CTB.

E. Virginia Economic Development Partnership

For a regular project, the Virginia Economic Development Partnership, in concert with the Virginia Department of Business Assistance, reviews the project information and makes a recommendation whether the establishment qualifies or the development constitutes an appropriate use of funds and whether it recommends that an allocation be made.

Typically, it is not necessary for the Local Assistance Division to coordinate with VEDP and VDBA until a particular business has made a commitment to locate on property that is or will be served by the subject access road project.

F. The Commonwealth Transportation Board

The CTB, upon consideration of the project information, may allocate funds for the access project with certain contingencies, which must be satisfied by the locality. This allocation is for the exclusive purpose of financing eligible costs incurred in constructing the access project. The date of the CTB allocation is the date on which the CTB approves the project and funding amount by adopted resolution. The CTB typically meets the third Wednesday of each month. All project information must be received by the VDOT Manager with sufficient time for review. The complete assembly of information and documentation for the project request, with the recommendation of the District Administrator should be submitted to the Local Assistance Division no less than thirty (30) days prior to the CTB meeting.

V. PROJECT IMPLEMENTATION

A. The State Environmental Review Process (SERP)

Created pursuant to § 10.1-1188 of the *Code of Virginia*, a Memorandum of Agreement has been executed by the Secretary of Natural Resources and the Secretary of Transportation. It requires that the state natural and historic resource agencies be provided an opportunity to comment on state funded road projects, estimated to cost more than \$500,000, at the earliest stage of development. SERP ensures that state resource agency views and interests are

considered in the project development process from concept through construction.

SERP, conducted by VDOT's Environmental Division, may take at least 60 days to coordinate with the several regulatory agencies for preliminary comment. The time necessary for implementing SERP and addressing any environmental commitments or regulatory clearances required by law must be anticipated in the project's development schedule, possibly prior to the CTB's approval of, and allocation to, an Economic Development Access Program project.

Projects developed under the Economic Development Access Program often must address a much more compressed development schedule than regular construction projects, in order to accommodate a locality's or qualifying establishment's desire for a facility or site to be accessed and eventually operational.

For this reason, the locality and VDOT Manager must work together in determining the viability of the Economic Development Access project with respect to the development schedule proposed for the project. The VDOT Manager may initiate the SERP process once the locality provides the location information and requests SERP initiation. Other funding arrangements must be made for this review if it is conducted prior to CTB approval of the project and authorization of the Economic Development Access funds. The locality is notified of comments resulting from SERP and informed of any environmental commitments or regulatory clearances necessary.

For projects to be administered by a locality, details regarding SERP are in Chapter 15, Environmental Requirements, section 3, of the Locally Administered Projects (LAP) Manual. Additional information regarding environmental requirements for state-funded projects can be found at this VDOT website:

http://www.virginiadot.org/business/environmental_requirements_for_state_funded_projects.asp

In all cases, the locality is responsible for obtaining water quality and any other applicable permits, as well as compliance to all federal and state regulations and laws. Compliance is documented on the Certification Form for State Funded Projects (Appendix F).

B. Locally Administered Projects

Projects to be administered by the locality are subject to the same requirements as other state funded, locally administered projects, as described in the LAP Manual. It is recommended the locality representatives become familiar with the Manual, particularly Chapter 5; State Funded and Special Program Projects. The manual is available on the VDOT Local Assistance Division website at:

http://www.virginiadot.org/business/locally_administered_projects_manual.asp

1. At the point when funding for a project is approved by the CTB, the project is deemed viable. No additional action is required by the CTB prior to advertisement, award or construction.

2. The Local Assistance Division prepares a local-state agreement between VDOT and the locality. The agreement identifies the terms for a locality to administer the project to include responsibilities of the locality and VDOT, funding sources, VDOT oversight charges, reimbursement amounts, and general project estimates by phase. The agreement must be fully executed prior to project advertisement. Furthermore, it authorizes the locality to perform any work that can be reimbursed from VDOT funds and it requires that the locality adhere to the Virginia Public Procurement Act in the administration of the project's advertisement and award. VDOT strongly recommends its standard project administration agreement for state funded projects be used for projects administered by a locality. The standard agreement can be found at:

<http://vdotforms.vdot.virginia.gov/SearchResults.aspx?filename=stateaidstandardPAA.pdf>

If a custom agreement is used, then such agreement is subject to review and concurrence by the Office of the Attorney General prior to its execution by a locality representative authorized to do so and the Commissioner of Highways. The locality signatory for the agreement must provide evidence of their authority to execute the agreement. Any cost incurred or contract executed by a local governing body or its agent, before an agreement is fully executed, is the responsibility of the local governing body, unless otherwise agreed to by the Director of Local Assistance.

3. The locality provides the project scope information to the VDOT Manager for a determination of SERP applicability based on the \$500,000 threshold. Other funding arrangements must be made for this review if it is conducted prior to CTB approval of the project and authorization of the Economic Development Access funds.
4. The locality representative completes the VDOT Certification Form for State Funded Projects (Appendix F) as the locality moves through project development and provides this form to the VDOT Manager prior to project award. The certification form provides a streamlined process with significantly less VDOT oversight and is used to certify adherence to all applicable laws and regulations pertaining to locally administered state funded projects. VDOT may perform project audits to verify compliance with this certification.
5. The locality provides documentation of dedicated right of way for the project to the VDOT Manager who, in turn, forwards the documentation to the District Right of Way Manager. The District forwards this information and its recommendation to VDOT's State Right of Way Director, who certifies that right of way and utility adjustments for the project have been obtained at no cost to the Economic Development Access Program fund. The provision of unencumbered right of way by the locality includes completion of any extensive environmental studies and required mitigation of existing environmental conditions.

6. The local government provides documentation to the VDOT Manager that a qualifying establishment has made firm commitment to locate on an eligible site (e.g., an executed construction contract) and an letter from the the qualifying establishment's chief financial officer outlining capital expenditures as specified in this document under "Qualifying Investment" (see page 4).

or

If bonded, the local government shall provide the required surety to the VDOT Manager, who forwards it to the Local Assistance Division.

7. The expenditure of Economic Development Access funds for the project will be approved by VDOT only after all contingencies of the Transportation Board's resolution have been met.

A locally administered project must be authorized, with funding approved for expenditure, before VDOT reimburses a locality for eligible costs attributed to the construction of the project. Appropriate documentation of costs and billing information, such as contractor's payment application and verification of payment, must be provided by the locality.

8. The VDOT Manager or designee monitors the construction of locally administered projects, notifies the Local Assistance Division when the construction is started and completed, and provides recommendations to the Local Assistance Division regarding requests for reimbursement. Please note that each locally administered project will have a Project Coordinator assigned for project development once the project is approved and that person may be different from the VDOT Manager.

VI. VDOT Administered Projects

1. At the point when funding for a project is approved by the CTB, the project is deemed viable. No additional action is required by the CTB prior to advertisement, award or construction. The Local Assistance Division prepares a local-state agreement between VDOT and the locality. It identifies specific responsibilities of the locality and VDOT, funding sources, and general project estimates by phase. The agreement is subject to review and concurrence by the Office of the Attorney General prior to its execution by a locality representative authorized to do so and the Commissioner of Highways. The locality signatory for the agreement must provide evidence of their authority to execute the agreement.
2. The locality provides the project scope information to the VDOT Manager for a determination of SERP applicability based on the \$500,000 threshold. Other funding arrangements must be made for this review if it is conducted prior to CTB approval of the project and authorization of the Economic Development Access funds.

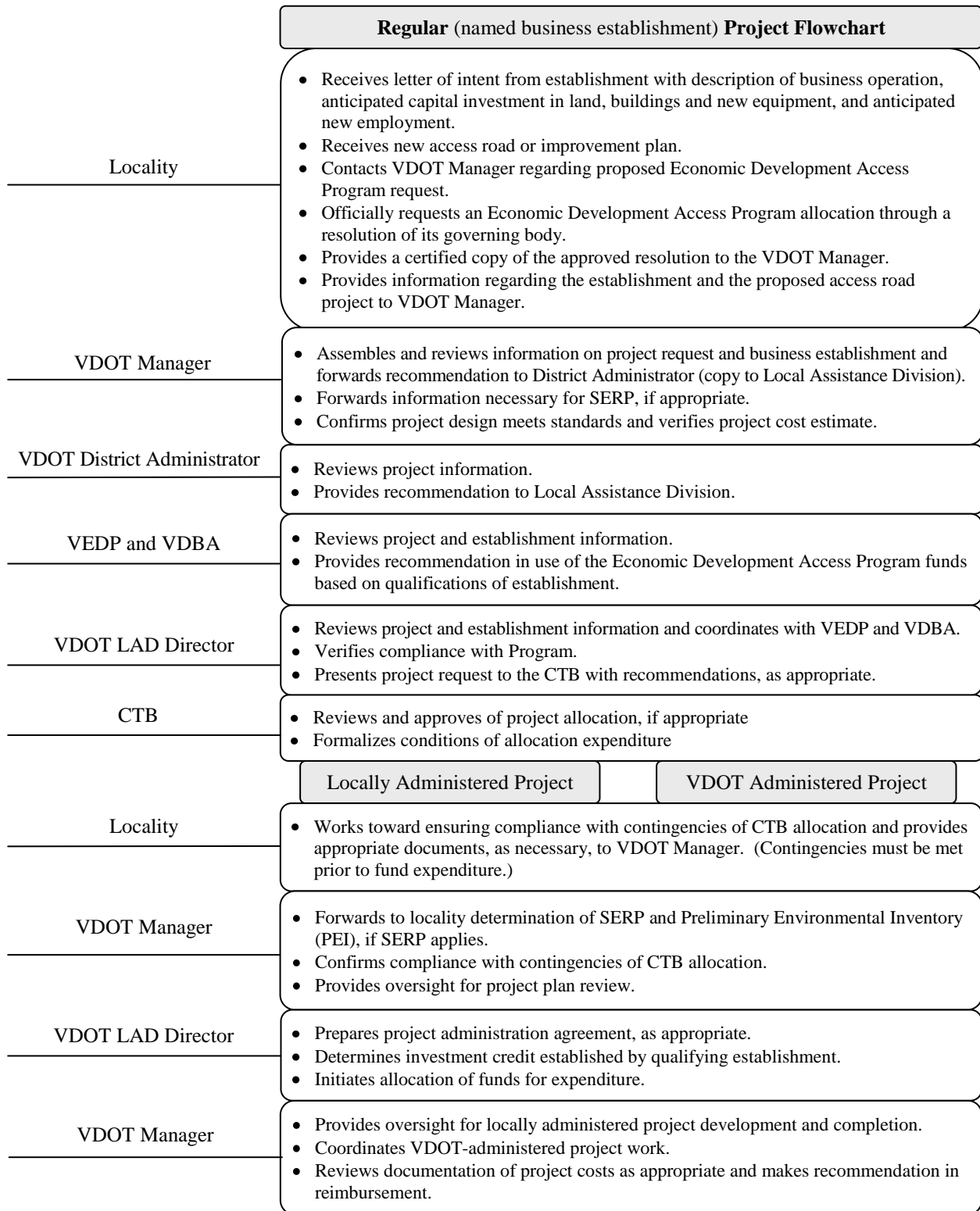
3. The locality provides documentation of the dedicated right of way for the project to the VDOT Manager, who, in turn, forwards the documentation to the District Right of Way Manager. The District forwards this information and its recommendation to VDOT's Right of Way and Utilities Division Director, who certifies that right of way and utility adjustments for the project have been obtained at no cost to the Economic Development Access Program fund. The provision of unencumbered right of way by the locality includes completion of any extensive environmental studies and required mitigation of existing environmental conditions.
4. The local government provides documentation to the VDOT Manager that a qualifying establishment has made firm commitment to locate on an eligible site (e.g., an executed construction contract) and a letter from the the qualifying establishment's chief financial officer outlining capital expenditures as specified in this document under "Qualifying Investment" (see page 3).

or

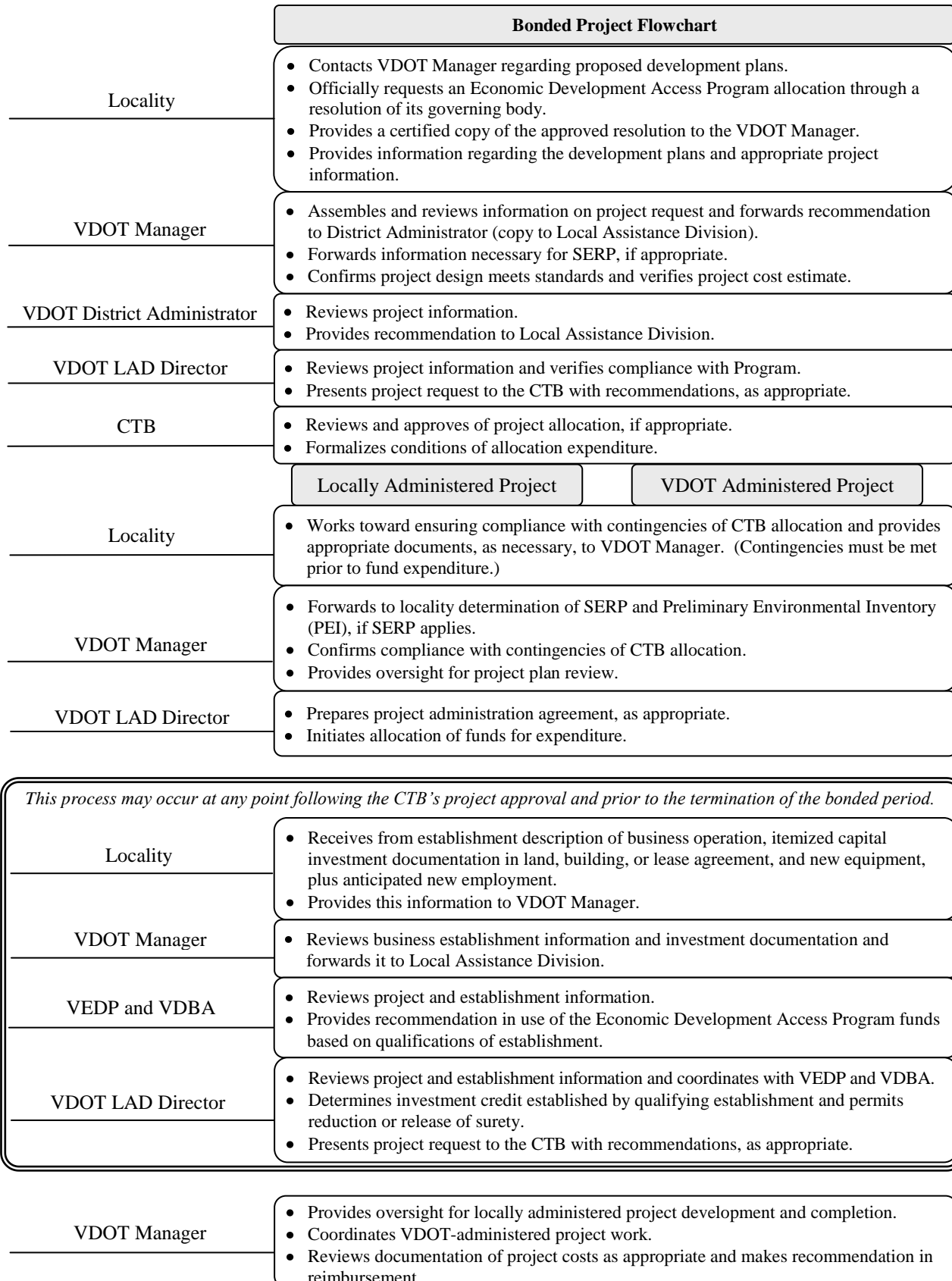
If bonded, the local government shall provide the required surety to the VDOT Manager, who forwards it to the Local Assistance Division.

5. The locality provides payment to the VDOT Manager for any required matching funds, ineligible project costs, or eligible project expenses in excess of the Economic Development Access Program allocation, prior to the project being authorized for construction. A VDOT-administered project must have all required funding in place before the project may be advertised or constructed.
6. The expenditure of funds for the project may be approved by VDOT only after all contingencies of the CTB's resolution have been met.
7. After a project is authorized, the VDOT Manager coordinates all aspects of the construction of VDOT-administered projects. Please note that each VDOT-administered project will have a Project Manager assigned for project development once the project is approved and that person may be different from the VDOT Manager.

Flow Chart 1 – Regular Project Development Process



Flow Chart 2 – Bonded Project Development Process



VII. LIMITATIONS

A. Maximum Allocation for Non-MEI Sites

Subject to available funding, the maximum unmatched allocation to a locality within any one fiscal year is \$500,000; allocations may be used for one or more projects. Further, the total amount available statewide under this program is limited by statute.

The maximum allocation to any regular project is limited to the lesser of either: the reasonable cost of the project (see page 2, paragraph II. E.) or 20% of the qualifying investment made by the qualifying establishment.

Example 1

Cost of constructing road =	\$ 500,000
Qualifying investment =	2,000,000
20% of qualifying investment =	400,000
Allocation is limited to	\$ 400,000

Example 2

Cost of constructing road =	\$ 500,000
Qualifying investment =	3,000,000
20% of qualifying investment =	600,000
Allocation is limited to	\$ 500,000

A locality may receive an allocation on behalf of a regional industrial authority without impacting its annual allocation eligibility. An allocation for a regional industrial facility authority project is subject to the same limitations as other Economic Development Access projects.

When the cost of an individual access project exceeds \$500,000, the locality may request up to \$150,000 in supplemental funds which must be matched on a dollar-for-dollar basis by a contribution from the general fund of the county, city, or town. Such supplemental state funding shall be limited to 20% of the qualifying investment above \$2.5 million, up to \$3.25 million. Project costs in excess of the allocation will be the responsibility of the locality.

Funds Not to be Anticipated

It is intended that Economic Development Access Program funds be requested as reasonably needed by the locality, but that these funds not be anticipated from year to year. Unused eligibility from a preceding year cannot be carried forward to an ensuing fiscal year.

B. Maximum Allocations for MEI Sites

For projects meeting the MEI criteria, some additional consideration is made.

Design-Only Projects

For projects serving sites meeting the definition of MEI, the locality may receive up to the maximum unmatched allocation and matched allocation for a design-only project. The local governing body shall guarantee by bond or other acceptable surety that plans for a MEI project will be developed to standards acceptable to VDOT. Upon approval of the road plans by VDOT, the surety may be released. The one-time allocation for a design-only project can not be approved in the same year as an allocation for a construction project.

MEI Example – Design-Only:		(Maximum Allocation)
\$500,000	Unmatched	
150,000	Matched	
150,000	Local Match	
\$800,000	Total	

Additional Allocation

For projects serving sites meeting the definition of MEI, the locality may receive up to the maximum unmatched allocation and an additional \$500,000 matched allocation for a road construction project. Project allocations for a given MEI construction project may be cumulative for not more than two years. An additional allocation can also be provided for design.

MEI Example – Construction Project:		(Maximum Allocation)
Year One		
\$ 500,000	Unmatched	
500,000	Matched	
500,000	Local Match	
\$1,500,000	Total	
Year Two		
\$ 500,000	Unmatched	
500,000	Matched	
500,000	Local Match	
\$1,500,000	Total	
Construction Project Cumulative		
\$1,000,000	Unmatched	
1,000,000	Matched	
1,000,000	Local Match	
\$3,000,000	Total	

C. Time Limits for Regular Projects

To ensure the most effective use of the limited funds available for the Economic

Development Access Program, allocations made for new access roads or improvements to serve a specific qualifying establishment are expected to be committed by contract or otherwise under construction within two years from the date of CTB approval. Allocations for projects that are not actively under way within two years of project approval by the CTB may be deallocated to fund new projects unless the Director of Local Assistance grants an exception due to unusual circumstances. At the end of 22 months following the allocation, if the proposed road access improvements to serve the new or expanding qualifying establishment have not been initiated, the locality shall submit a written explanation of the status of the project and reason for delay if an extension of time is needed. Nothing precludes the locality from reapplying for an allocation in the future once the plans for economic development are more imminent.

D. Time Limits for Bonded Projects

Pursuant to § 33.1-221 of the *Code of Virginia* (see Appendix A) which establishes funding for this program, allocations may be approved for new access roads or improvements to existing roads for projects when a qualifying establishment is not yet constructed or under firm contract and the local governing body guarantees by bond or other acceptable surety that such will occur. In order to ensure the most effective use of the limited funds available for the program, the maximum time limit for such bond shall be five years, beginning on the date of the allocation of the economic development access funds by resolution of the CTB.

Similar to regular Economic Development Access projects, if proposed road access improvements to serve eligible property have not been initiated within 22 months following the CTB allocation, the locality shall submit a written explanation of the status of the project and reason for delay if an extension of time is needed.

At the end of the five-year bonded period the amount of Economic Development Access funds expended on the project and not justified by eligible capital outlay of one or more qualifying establishments acceptable to the Board shall be reimbursed to VDOT voluntarily by the locality or by forfeiture of the surety. In the event that, after VDOT has been reimbursed, but still within 24 months immediately following the end of the five-year period, the access funds expended are justified by eligible capital investment of one or more eligible establishments, then the locality may request a refund of one-half of the sum reimbursed to VDOT. The request may be granted by the CTB if funds are available, on a first-come, first-served basis in competition with applications for access funds from other localities.

The time limit for MEI projects is based on the CTB's first allocation.

E. Improvements to Existing Roads

Where an existing road constitutes a portion of the secondary system of state highways or is part of the road system of the locality in which it is located, Economic Development Access funds may be used to improve the existing road only to the

extent required to meet the needs of traffic generated by the new or expanding establishment. Additionally, where access to a qualified economic development site is via an existing road that can be determined inadequate for providing safe and efficient movement of the type of traffic generated by the site or that this traffic conflicts with the surrounding road network to the extent that it poses a safety hazard to the general public, consideration may be given to funding additional improvements. Such projects must be requested by resolution of the local governing body and will be evaluated on case-by-case basis. The VDOT Regional Traffic Engineer may be requested to evaluate and provide a recommendation on such requests. However, intersection improvements, traffic signal installation, or construction of turn lanes, as stand-alone projects, typically are not eligible for Economic Development Access Program funds.

When a project is established to improve an existing road to serve an eligible parcel having frontage on that road, Economic Development Access funds will provide for improvements to the proposed primary entrance.

VIII. ACCEPTANCE INTO SYSTEM

New roadways, upon completion, are opened to public use and are to be accepted into the appropriate system for maintenance. If a developer or other landowner intends to close or gate a road into a development for security or other reasons, the Economic Development Access Program is not an appropriate source of funding. For all counties, except Arlington and Henrico, and in towns not maintaining their own road systems, these improvements will be added to the secondary system of state highways. For cities and towns receiving maintenance payments, and in the counties of Arlington and Henrico, these roads are to be taken into the road system of these locality.

Appendix A

Statutory Authority

Statutory Authority
Code of Virginia

§ 33.1-221. Funds for access roads to economic development sites and airports; construction, maintenance, etc., of such roads.

A. Notwithstanding any other provision of law, there shall be appropriated to the Commonwealth Transportation Board funds derived from taxes on motor fuels, fees and charges on motor vehicle registrations, road taxes or any other state revenue allocated for highway purposes, which shall be used by the Board for the purposes hereinafter specified, after deducting the costs of administration before any of such funds are distributed and allocated for any road or street purposes.

Such funds shall be expended by the Board for constructing, reconstructing, maintaining or improving access roads within counties, cities and towns to economic development sites on which manufacturing, processing, research and development facilities, distribution centers, regional service centers, corporate headquarters, or other establishments that also meet basic employer criteria as determined by the Virginia Economic Development Partnership in consultation with the Virginia Department of Business Assistance will be built under firm contract or are already constructed and to licensed, public-use airports; in the event there is no such establishment or airport already constructed or for which the construction is under firm contract, a county, city, or town may guarantee to the Board by bond or other acceptable device that such will occur and, should no establishment or airport acceptable to the Board be constructed or under firm contract within the time limits of the bond, such bond shall be forfeited. The time limits of the bond shall be based on regular review and consideration by the Board. Towns which receive highway maintenance payments under § 33.1-41.1 shall be considered separately from the counties in which they are located when receiving allocations of funds for access roads.

B. In deciding whether or not to construct or improve any such access road, and in determining the nature of the road to be constructed, the Board shall base its considerations on the cost thereof in relation to the volume and nature of the traffic to be generated as a result of developing the airport or the economic development site. Within any economic development site or airport, the total volume of traffic to be generated shall be taken into consideration in regard to the overall cost thereof. No such access road shall be constructed or improved on a privately owned economic development site.

C. Any access road constructed or improved under this section shall constitute a part of the secondary system of state highways or the road system of the locality in which it is located and shall thereafter be constructed, reconstructed, maintained and improved as other roads in such system.

(Code 1950, § 33-136.1; 1956, c. 161; 1962, c. 550; 1964, c. 254; 1970, c. 322; 1978, c. 299; 1980, c. 38; 1989, c. 336; 1996, cc. 85, 128; 1997, c. 89; 2006, cc. 147, 473.)

Appendix B

Commonwealth Transportation Board Policy (revised June 20, 2012)



COMMONWEALTH of VIRGINIA

Commonwealth Transportation Board

Sean T. Connaughton
Chairman

1401 East Broad Street
Richmond, Virginia 23219

(804) 786-2701
Fax: (804) 225-2940

Agenda item # 6

RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD

June 20, 2012

MOTION

Made By: Mr. Layne

Seconded By: Mr. Ellis

Action: Motion Carried, Unanimously

Title: Economic Development Access Fund Policy (Revision)

WHEREAS, The General Assembly has, from time to time, amended Section 33.1-221 of the *Code of Virginia* (1950) (the *Code*) relating to the fund for construction of economic development access roads; and

WHEREAS, this Board has also, from time to time, revised its policy for the administration of the Economic Development Access Program; and

WHEREAS, it is the sense of this Board that its present policy should be revised and restated to be more compatible with present conditions.

NOW, THEREFORE, BE IT RESOLVED that the Commonwealth Transportation Board (CTB) hereby adopts the following policy to govern the use of economic development access funds pursuant to Section 33.1-221, as amended, of the *Code*:

1. The use of economic development access funds shall be limited to: (a) providing adequate access to economic development sites on which new or substantially expanding manufacturing, processing, research and development facilities, distribution centers, regional service centers, corporate headquarters or other establishments that also meet basic employer criteria as determined by the Virginia Economic Development Partnership in consultation with the Virginia Department of Business Assistance; (b) improving existing roads that may not be adequate to serve the establishments as described in (a); and (c) providing for costs associated directly with program administration and management of project requests prior to CTB approval with such costs not expected to exceed 1% of the allocation annually.

2. Economic development access funds shall not be used for the acquisition of rights of way or adjustment of utilities. These funds are to be used only for the actual construction and engineering of a road facility adequate to serve the traffic generated by the new or expanding eligible establishments.
3. Economic development access funds may not be used for the construction of access roads to schools, hospitals, libraries, airports, armories, speculative office buildings, shopping centers, apartment buildings, professional offices, residential developments, churches, hotels, motels, or similar facilities, whether public or private. (Access roads to licensed, public-use airports, while provided for in Section 33.1-221, are funded and administered separately).
4. No cost incurred prior to this Board's approval of an allocation from the economic development access fund may be reimbursed by such funds. Economic development access funds shall be authorized only after certification that the economic development establishment as listed or meeting the criteria as described will be built under firm contract, or is already constructed, or upon presentation of acceptable surety in accordance with paragraph A. of Section 33.1-221 of the *Code*.
5. When an eligible establishment is not yet constructed or under firm contract and a local governing body guarantees by bond or other acceptable surety that such will occur, the maximum time limit for such bond shall be five years, beginning on the date of the allocation of the economic development access funds by the Commonwealth Transportation Board. At the end of the five-year period, the amount of economic development access funds expended on the project and not justified by eligible capital outlay of one or more eligible establishments acceptable to the Board shall be reimbursed to the Department of Transportation voluntarily by the locality or by forfeiture of the surety. In the event that, after the Department of Transportation has been reimbursed, but still within 24 months immediately following the end of the five-year period, the access funds expended come to be justified by eligible capital outlay of one or more eligible establishments, the locality may request a refund of one-half of the sum reimbursed to the Department of Transportation, which request may be granted if funds are available, on a first-come, first-served basis in competition with applications for access funds from other localities.
6. Economic development access funds shall not be used to construct or improve roads on a privately owned economic development site. Nor shall the construction of a new access road to serve any economic development site on a parcel of land which abuts a road constituting a part of the systems of state highways or the road system of the locality in which it is located be eligible for economic development access funds, unless the existing road is a limited access highway and no other access exists. Further, where the existing road is part of the road system of the locality in which it is located, or the secondary system of state highways, economic development funds may be used to upgrade the existing road only to the extent required to meet the needs of traffic generated by new or expanding eligible establishment.

In the event an economic development site has access according to the foregoing provisions of this policy, but it can be determined that such access is not adequate in that it does not provide for safe and efficient movement of the traffic generated by the eligible establishment on the site or that the site's traffic conflicts with the surrounding road network to the extent that it poses a safety hazard to the general public, consideration will be given to funding additional improvements. Such projects shall be evaluated on a case-by-case basis upon request, by resolution, from the local governing body. Localities are encouraged to establish planning policies which will discourage incompatible mixes such as industrial and residential traffic.

7. Not more than \$500,000 of unmatched economic development access funds may be allocated in any fiscal year for use in any county, city or town which receives highway maintenance payments under Section 33.1-41.1, of the *Code*. A town whose streets are maintained under either Section 33.1-79 or 33.1-82, of the *Code*, shall be considered as part of the county in which it is located. The maximum eligibility of unmatched funds shall be limited to 20% of the capital outlay of the designated eligible establishments and certain investment by the locality in the land and/or the building on the site occupied by the designated eligible establishment. The unmatched eligibility may be supplemented with additional economic development access funds, in which case the supplemental access funds shall not be more than \$150,000, to be matched dollar-for-dollar from funds other than those administered by this Board. Such supplemental funds shall be considered only if the total estimated cost of eligible items for the economic development access improvement exceeds \$500,000.

If an eligible site is owned by a regional industrial facility authority, as defined in Section 15.2-6400 et seq., of the *Code*, funds may be allocated for construction of an access road project to that site without penalty to the jurisdiction in which the site is located. This provision may be applied to one regional project per fiscal year in any jurisdiction, with the same funding limitations as prescribed for other individual projects.

8. Notwithstanding the provisions herein, for Major Employment and Investment (MEI) projects as defined in Section 2.2-2260, of the *Code* and administered by the Virginia Economic Development Partnership, the locality may receive up to the maximum unmatched allocation and matched allocation for a design-only project. The local governing body shall guarantee by bond or other acceptable surety that plans for a MEI project will be developed to standards acceptable to VDOT.

In addition, for projects utilizing economic development access funds to serve approved MEI projects, the locality may receive up to the maximum unmatched allocation and an additional \$500,000 matched allocation for a road construction project. Project allocations for a given MEI project may be cumulative for not more than two years.

9. Eligible items of construction and engineering shall be limited to those which are essential to providing an adequate facility to serve the anticipated traffic while meeting all appropriate CTB and state policies and standards. However, additional pavement width or other features may be eligible where necessary to qualify the road facility in a city or town for maintenance payments under Section 33.1-41.1, of the *Code*.
10. Except as provided for in paragraph item 8. pertaining to MEI projects, it is the intent of the Board that economic development access funds not be anticipated from year to year. Unused eligibility cannot be allowed to accumulate and be carried forward from one fiscal year to another.
11. The Commonwealth Transportation Board will consult and work closely with the Virginia Economic Development Partnership (VEDP) and the Department of Business Assistance (DBA) in determining the use of economic development access funds and will rely on the recommendations of the VEDP and the DBA in making decisions as to the allocation of these funds. In making its recommendations to this Board, the VEDP and the DBA will take into consideration the impact of the proposed facility on the employment and tax base of both the area in which the facility is to be located and the Commonwealth of Virginia.
12. Prior to the formal request for the use of economic development access funds to provide access to new or expanding eligible establishments, the location of the access road shall be submitted for approval by the Virginia Department of Transportation. VDOT shall take into consideration the cost of the facility as it relates to the location and as it relates to the possibility of the future extension of the road to serve other possible eligible establishments, as well as the future development of the area traversed.
13. Prior to this Board's allocation of funds for such construction or road improvements to an eligible economic development establishment proposing to locate or expand in a county, city or town, the governing body shall by resolution request the access funds and shall be responsible for the preliminary negotiations with the eligible establishment and others interested. Engineers of the Virginia Department of Transportation will be available for consultation with the governing bodies and others, and may prepare surveys, plans, engineering studies, and cost estimates.
14. The Commonwealth Transportation Commissioner is directed to establish administrative procedures to assure the provisions of this policy and legislative directives are adhered to and complied with.

BE IT FURTHER RESOLVED that the above revised policy shall become effective immediately, and shall supersede all policies heretofore adopted by this Board governing the use of economic development access funds.

####

Appendix C

Sample Locality Resolutions

Sample Resolution Formats

Regular Project

[Qualifying business establishment exists or is under firm contract]

At a regularly scheduled meeting of the [NAME of locality] [select (City/Town Council or County Board of Supervisors)] held on [month and day], 20[##], on a motion by [BOS or Council member name], seconded by [BOS or Council member name], the following resolution was adopted by a vote of [#] to [#]:

WHEREAS, the [local government or full name of industrial authority created pursuant to § 15.2-6402 of the *Code of Virginia*] [has acquired/desires to develop] property for the purpose of economic development located off of [NAME of road] ([Route #]) in the [City/Town/County] of [NAME of City/Town/County], Virginia, within the [NAME of industrial park or development]; and

WHEREAS, the [full name of corporation or entity] has purchased property located in the [City/Town/County] of [NAME of City/Town/County] and [has entered/will soon enter] into a firm contract to [construct/expand] its facilities on that property for the purpose of [producing (type of product or production/manufacturing operation description)]; and

WHEREAS, this new facility is expected to involve new private capital investment in land, building, and equipment of approximately [\$\$\$] and the [NAME of industry or establishment] is expected to employ [###] persons at this facility; and

WHEREAS, operations are expected to begin at this new facility on or about [month and day], 20[##]; and

WHEREAS, the existing public road network does not provide for adequate access to this property and an access road improvement project is necessary; and

WHEREAS, the [City/Town/County] of [NAME of City/Town/County] hereby guarantees that the necessary environmental analysis, mitigation, fee simple right of way and utility relocations or adjustments, if necessary, for this project, will be provided at no cost to the Economic Development, Airport and Rail Access Fund; and

WHEREAS, the [City/Town/County] of [NAME of City/Town/County] acknowledges that no land disturbance activities may occur within the limits of the proposed access project prior to appropriate notification from the Department of Transportation; and

WHEREAS, the [City/Town/County] of [NAME of City/Town/County] hereby guarantees that all ineligible project costs and all costs not justified by eligible capital outlay will be provided from sources other than those administered by the Virginia Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED THAT: The [NAME of City/Town/County] [select (City/Town Council or County Board of Supervisors)] hereby requests that the Commonwealth Transportation Board provide Economic Development Access Program funding to provide an adequate road to this property; and [(if following paragraph applies)]

BE IT FURTHER RESOLVED THAT: The [NAME of locality] [select (City/Town Council or County Board of Supervisors)] hereby agrees that the improvements so constructed will be added to and become a part of the [select either (City/Town of NAME road system) or (secondary system of state highways)].

(SEAL)

A COPY TESTE: _____
Chairperson/Mayor

* * * * *

Sample Resolution Formats

Bonded Project [No (or insufficient) qualifying investment]

At a regularly scheduled meeting of the [NAME of locality] [select (City/Town Council or County Board of Supervisors)] held on [month and day], 20[##], on a motion by [BOS or Council member name], seconded by [BOS or Council member name], the following resolution was adopted by a vote of [#] to [#]:

WHEREAS, the [full name of industrial authority, local government, or regional agency] [has acquired/desires to develop] property for the purpose of economic development use located off of [NAME of road] ([Route #]) in the [City/Town/County] of [NAME of City/Town/County], Virginia, for the purpose of economic development within the [NAME of industrial park or development]; and

WHEREAS, this property is expected to be the site of new private capital investment in land, building, and manufacturing equipment which will provide substantial employment; and

WHEREAS, the existing public road network does not provide for adequate access to this property and an access road improvement project is necessary and

WHEREAS, the [City/Town/County] of [NAME of City/Town/County] hereby guarantees that the necessary environmental analysis, mitigation, fee simple right of way and utility relocations or adjustments, if necessary, for this project will be provided at no cost to the Economic Development, Airport and Rail Access Fund; and

WHEREAS, the [City/Town/County] [NAME of City/Town/County] acknowledges that no land disturbance activities may occur within the limits of the proposed access project prior to appropriate notification from the Department of Transportation; and

WHEREAS, the [City/Town/County] of [NAME of City/Town/County] hereby guarantees that all ineligible project costs and all costs not justified by eligible capital outlay will be provided from sources other than those administered by the Virginia Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED THAT: The [NAME of City/Town/County] [select (City/Town Council or County Board of Supervisors)] hereby requests that the Commonwealth Transportation Board provide Economic Development Access Program funding to provide an adequate road to this property; and

BE IT FURTHER RESOLVED THAT: The [NAME of Locality] [select (City/Town Council or County Board of Supervisors)] hereby agrees to provide a surety or bond, acceptable to and payable to the Virginia Department of Transportation, in the full amount of the Commonwealth Transportation Board's allocation less eligible private capital outlay credit determined by VDOT;

this surety shall be exercised by the Department of Transportation in the event that sufficient qualifying capital investment does not occur on [(qualifying parcel(s)) or identify each parcel to be served (e.g., parcel #, lot #)] within five years of the Commonwealth Transportation Board's allocation of funds pursuant to this request; and [(if following paragraph applies)]

BE IT FURTHER RESOLVED THAT: The [NAME of locality] [select (City/Town Council or County Board of Supervisors)]_hereby agrees that the improvements so constructed will be added to and become a part of the [select either (City/Town of NAME road system) or (secondary system of state highways)].

(SEAL)

A COPY TESTE: _____
Chairperson/Mayor

* * * * *

Appendix D

Samples Of Surety Instruments For Bonded Projects

Types of Surety for Bonded Projects

Irrevocable Standby Letter of Credit

Beneficiary:
Virginia Department of Transportation
1401 East Broad Street
Richmond, Virginia 23219

Date: _____
Amount US Dollars: _____

Applicant:
[enter name of city/town/county] _____
[enter address] _____
[enter city, state and zip code] _____

Letter of Credit # _____
Expiration Date: _____

Dear Sirs:

We hereby issue this irrevocable standby letter of credit in your favor available by your draft(s) up to the aggregate amount of [enter written amount] US Dollars ([enter dollar amount]) drawn on us at sight accompanied by the following document:

Beneficiary's signed statement certifying that "The drawing is for reimbursement to the Virginia Department of Transportation for costs incurred in the construction of the Economic Development Access road, Project [enter assigned state project number] to and within the [enter name of development] in [enter name of city/town/county], Virginia. Said reimbursement is pursuant to the Commonwealth Transportation Board's resolution of [enter CTB resolution date and, if available, include "and the local-state agreement dated (date)], requiring that eligible industry be constructed or under firm contract no later than [enter date].

Partial drawings are permitted.

Each draft drawn relative hereto must be marked: "Drawn under [enter name of institution providing surety] Letter of Credit # _____," and be accompanied by this original letter of credit.

This irrevocable standby letter of credit sets forth in full the terms of our undertaking. This undertaking shall not in any way be modified, amended or amplified by reference to any documents or contracts referred to herein.

We hereby agree to honor each draft drawn under and in compliance with the terms of this credit, if duly presented (together with the documents as specified) at our office at [enter name of institution providing surety], on or before the expiration date hereof.

This credit is subject to the "Uniform Customs and Practice for Documentary Credits" (1993 Revision), International Chamber of Commerce Publication No. 500.

Authorized Signature

Title

Types of Surety for Bonded Projects

Surety Bond

Bond Number: _____

KNOW ALL MEN BY THESE PRESENTS, THAT the [enter name of city/town/county], Virginia, as Principal, and [enter name of institution providing surety], as Surety, are held and firmly bound unto the Virginia Department of Transportation, as obligee, in the full sum of [enter written amount] Dollars ([enter dollar amount]) lawful money of the United States of America, for payment whereof well and truly to be made we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Signed, sealed, and dated this _____ day of _____, 20 ____.

WHEREAS, the Virginia Department of Transportation, through the Commonwealth Transportation Board, has allocated [enter amount of CTB allocation] in Economic Development Access Program funds for [enter name of development], located [enter location (e.g., "off Route [#####], north/south/east/west of ...")], in [enter name of city/town/county], Virginia, Project [enter assigned state project number], to assist in providing access to the proposed development.

NOW, THEREFORE, the condition of the above obligation is such that [enter name of city/town/county] shall reimburse the Virginia Department of Transportation for any expenses incurred by the Economic Development Access Program fund for that part of this project's construction not justified by the eligible capital outlay of qualifying establishment(s) served by the project, as of [enter date of expiration which is 5 years after date of CTB allocation], pursuant to the contingency #____ of the Commonwealth Transportation Board's resolution of [enter date of CTB allocation], then this obligation to be void and of no effect; otherwise to be and remain in full force and virtue.

Attest: _____

Principal: _____

By: _____

Attest: _____

Surety: _____

By: _____

Appendix E

Documentation Of Qualifying Investment – Submittal Cover Sheet

Economic Development Access Program
Documentation of Qualifying Investment – Submittal Cover Sheet

This form will be completed by the locality and submitted with investment documentation for each qualifying business establishment to the VDOT manager.

Submitted for: _____
(Project Number/UPC or name of development)

Locality: _____

Establishment

- ☐ Name: _____
- ☐ Operation(s) narrative attached for each establishment (preferably, this is on letterhead of the business and signed by an executive of the company)
- ☐ North American Industry Classification System (NAICS) code: _____

New or Anticipated Employment (number)

☐ _____

Location (in relation to access project)

- ☐ # _____ (confirm parcel number based on plat dated _____), or
- ☐ (attach plat or sketch with parcel marked)

Land - Verification of Ownership (by qualifying establishment)

- ☐ Deed/Plat (copy attached)
- ☐ Purchase Agreement (copy attached)
- ☐ Amount of Investment represented: \$ _____

Building – Verification of New* Investment

- ☐ Contract (“firm”) to build (copy attached)
- ☐ Invoices (attached)
- ☐ Transaction verification (copies of checks, receipts, etc.)
- ☐ Amount of Investment represented: \$ _____

Equipment – Verification of New* Investment

- ☐ Invoices (attached)
- ☐ Transaction verification (copies of checks, receipts, etc.)
- ☐ Amount of Investment represented: \$ _____

Submitted by: _____ Date: _____
Locality representative

** Typically, to be considered eligible for credit warranting access funding, investment should be established no earlier than 6 months prior to the local government’s resolution requesting access funding.*

Appendix F

Certification Form For State Funded Projects

Certification Form for State Funded Projects

Project Number: _____

UPC: _____

This certification form is to be used to certify adherence to all applicable laws and regulations pertaining to locally administered state funded projects. This certification form will not be used for projects utilizing any federal funds. The signature at the bottom will certify that **>INSERT LOCAL GOVERNMENT NAME<** has met the following requirements for state funded projects. VDOT may perform project audits to verify compliance with this certification. False or inaccurate statements identified by VDOT or other state regulatory agencies may result in the requirement to return state aid and/or other penalties as allowed by State law.

Initials	Certification Statement
	Check applicable statement: <input type="checkbox"/> For highways maintained by the LPA, project plans have been designed in accordance with AASHTO standards and signed and sealed by a Virginia registered P.E. in accordance with DPOR; OR <input type="checkbox"/> For highways which will be operated and maintained by VDOT, project plans have been designed in accordance with VDOT Standards and that VDOT has reviewed the plans in accordance with the agreed upon schedule and all necessary design variances/waivers have been attained and the plans have been signed and sealed by a Virginia registered P.E. in accordance with DPOR.
	All required regulatory agency coordination has been made and applicable permits or approvals have been acquired.
	Where VDOT will operate and maintain the highway, that the LPA has performed appropriate due diligence to identify environmental hazards on new right of way and to the best of our knowledge, any existing environmental hazards have been identified and mitigated or a plan for mitigation during construction has been made.
	Project was developed in accordance with State laws and regulations governing public involvement so that adequate and appropriate public notice and opportunity for public comment was provided.
	All right of way has been obtained and that the LPA has legal right of entry onto each and every parcel for the advertisement and construction of the referenced Project.
	The LPA has complied with the Code of Virginia requirements pertaining to relocations and the acquisition of real property.
	All affected utilities have been relocated or companies authorized to relocate their facilities. If not, they are included as in-plan work to be performed by the road contractor.
	The project was advertised in accordance with the Virginia Public Procurement Act and that the advertisement package included all appropriate EEO provisions.
	All environmental regulations as are applicable to local government capital improvement projects and as required by State or federal laws applicable to non federal-aid projects have been met or provisions to meet continuing requirements during construction have been made.

>INSERT LOCAL GOVERNMENT NAME< acknowledges that failure to fulfill its legal obligations associated with those requirements identified in this certification may result in project delays and/or delays or forfeiture of State reimbursements. **>INSERT LOCAL GOVERNMENT NAME<** further acknowledges that obligations associated with those requirements identified in this certification may be subject to audit by VDOT or State oversight agencies.

 Local Government Manager (City Manager, County Administrator, City Engineer or County Director of Public Works or designated authority to sign)

 Date

cc: Project file
 VDOT Project Coordinator
 VDOT Local Assistance Director

Appendix G

Economic Development Access Program Checklist

Economic Development Access Program Outline/Checklist

The purpose of the Economic Development Access Program is to assist localities in providing adequate access to new or expanding economic development sites. Adequate access, in consideration of the type and volume of traffic to be generated by the subject site, may require the construction of a new roadway, improvement of an existing roadway, or both to serve the qualifying development. The program is administered by VDOT under the authority of § 33.1-221 of the *Code of Virginia*.

These funds may be requested by the local governing body of counties, cities, and certain towns that receive highway maintenance payments under § 33.1-41.1 of the *Code of Virginia*. The maximum unmatched allocation within any one fiscal year is \$500,000. A supplement of up to \$150,000 is available upon locality's match (dollar for dollar). Funding is dependent on the estimated cost of eligible portion of access road and anticipated eligible capital investment on sites served. Such supplemental funds shall be considered only when an individual project's estimated eligible costs exceed \$500,000.

Funds may be allocated for construction of an access road project to an eligible site that is owned by a regional industrial facility authority, created pursuant to § 15.2-6402 of the *Code of Virginia*, without penalty to the jurisdiction in which the site is located. This provision may be applied to one regional project per fiscal year in any jurisdiction, subject to the same funding limitations as prescribed for other individual projects.

PROJECT IDENTIFICATION

- ☐ Qualifying Establishment – (where it has been determined that a named establishment is eligible and the development site does not have adequate access)
 - ☐ Determination by VDOT, VEDP and VDBA
 - ☐ Documentation of eligible capital investment – (20% for purpose of justifying road costs)
 - ☐ Reimbursement based on actual project cost, not to exceed 20% of the documented eligible capital outlay of the qualifying establishment(s) served
- ☐ Bonded Project – (where site(s) is (are) determined not to have adequate access and the locality is willing to guarantee that eligible capital investment will occur warranting the use of the access road funds)
 - ☐ Determination by VDOT, VEDP and VDBA
 - ☐ Provision of acceptable surety by locality that qualifying investment will be established on project within 5-year period beginning with date of CTB allocation by resolution
 - ☐ Reimbursement based on eligible capital investment (20% for purpose of justifying road costs established w/in 5-year bond period) of qualifying establishment(s) served in relation to cost of project

REQUEST & PROJECT INFORMATION SUBMITTAL (*once a qualifying establishment can be identified*)

- ☐ A qualifying establishment provides the locality with a letter of intent that includes:
 - ☐ Description and location of site
 - ☐ Target dates for building construction and facility operation
 - ☐ Itemized capital investment planned for site
 - ☐ Description of operation of the subject establishment
 - ☐ Number of new jobs
 - ☐ Description of access road improvements requested
 - ☐ Volume and type of traffic generated by site operation
- 1. The locality contacts the local VDOT Manager with the proposed development plans:
 - ☐ Requests funds by resolution of the local government
 - ☐ Provides appropriate project information
 - ☐ Complies with applicable state/federal environmental laws, regulations, etc.
 - ☐ Provides Project Certification form (for projects administered by locality)
- 2. The Local VDOT Manager
 - ☐ Assembles project request information
 - ☐ Forwards information necessary for SERP
 - ☐ Reviews project information
 - ☐ Recommends project design and provides project costs estimate
- 3. The VDOT District Administrator
 - ☐ Reviews project information
 - ☐ Provides recommendation to Local Assistance Division
- 4. The Virginia Economic Development Partnership and the Department of Business Assistance
 - ☐ Review project and information pertaining to operation of the establishment
 - ☐ Provide recommendation in use of the Economic Development Access Fund
- 5. The Local Assistance Division Director
 - ☐ Reviews project information
 - ☐ Assembles information and recommends proposed project to CTB for consideration.
- 6. The Commonwealth Transportation Board
 - ☐ Reviews and approves the project allocation, if appropriate
 - ☐ Formalizes conditions of fund expenditure
- 7. Virginia Department of Transportation
 - ☐ Makes determination of SERP applicability. Provides Preliminary Environmental Inventory (PEI) if SERP applies.
 - ☐ Verifies contingencies of allocations are met prior to expenditure
 - ☐ Provides oversight for project plan review and construction
 - ☐ Authorizes expenditures of Program funds

Appendix H

Cities And Towns Maintaining Own Streets

Cities and Towns Maintaining Own Streets Under §33.1-41.1 of the *Code of Virginia*

<u>City</u>	<u>Town</u>	<u>Town</u>
Alexandria	Abingdon	Leesburg
Bedford	Altavista	Luray
Bristol	Ashland	Marion
Buena Vista	Berryville	Narrows
Charlottesville	Big Stone Gap	Orange
Chesapeake	Blacksburg	Pearisburg
Colonial Heights	Blackstone	Pulaski
Covington	Bluefield	Purcellville
Danville	Bridgewater	Richlands
Emporia	Broadway	Rocky Mount
Fairfax	Chase City	Saltville
Falls Church	Chincoteague	Smithfield
Franklin	Christiansburg	South Boston
Fredericksburg	Clifton Forge	South Hill
Galax	Colonial Beach	Strasburg
Hampton	Culpeper	Tazewell
Harrisonburg	Dumfries	Vienna
Hopewell	Elkton	Vinton
Lexington	Farmville	Warrenton
Lynchburg	Front Royal	Wise
Manassas	Grottoes	Woodstock
Manassas Park	Herndon	Wytheville
Martinsville	Lebanon	
Newport News		
Norfolk		
Norton		
Petersburg		
Poquoson		
Portsmouth		
Radford		
Richmond		
Roanoke		
Salem		
Staunton		
Suffolk		
Virginia Beach		
Waynesboro		
Williamsburg		
Winchester		